

Form FOC 61

OBJECTION TO EX PARTE ORDER AND MOTION TO RESCIND OR MODIFY

Use this form if:

- you get a copy of an ex parte order (an order entered without notice or hearing) and you want to object to and change that order. You must file an objection and/or motion within 14 days after your are served with the ex parte order.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

- | | | |
|----|--|------------------------------|
| 1. | Fill out all requested information on the form? | YES <input type="checkbox"/> |
| 2. | Make all necessary copies? | YES <input type="checkbox"/> |
| 3. | Pay the motion fee to the clerk? | YES <input type="checkbox"/> |
| 4. | Mail a copy of the objection/motion on the other party and on any other custodian/guardian? | YES <input type="checkbox"/> |
| 5. | Return to the clerk's office after you mailed the objection/motion to the other party and completed the certificate of mailing? | YES <input type="checkbox"/> |
| 6. | Keep one copy of the objection/motion form for yourself? | YES <input type="checkbox"/> |
| 7. | Give 2 copies of the completed form to the clerk of the court? | YES <input type="checkbox"/> |

If you cannot answer "yes" to all of the above steps, your objection/motion may be dismissed.

By using this form you are representing yourself in a court action. In order to receive the action you seek, you must follow the instructions. If you fail to do even one of the required steps, the order you get from the court may not give you what you want.

If you have questions about any step in the process, read pages 3 and 4 for details.

INSTRUCTIONS FOR USING FORM FOC 61
FILING AN OBJECTION TO EX PARTE ORDER AND MOTION TO RESCIND OR MODIFY

You must act immediately to object to an ex parte order. The law requires that an objection and/or motion must be filed within 14 days after you are served with the ex parte order.

After you file this form, the friend of the court is required to attempt to resolve the dispute within 14 days after they receive your objection.

If the dispute cannot be resolved by the friend of the court, you must tell the friend of the court that you want the matter scheduled for a hearing. If you want a hearing scheduled, use form FOC 7, Notice of Hearing.

»» FILING AN OBJECTION AND MOTION

1. Fill out the Objection and Motion form.

Use the instructions on page 5. Type or print neatly. Be careful not to make mistakes.

Make at least 5 copies of the form and any attachments after you have filled it out.

2. File the Objection and Motion form with the county clerk.

Take the 6 copies of the form to the county clerk in the county where your case is located.

You must pay a \$20.00 motion fee. If you can't afford to pay the motion fee, ask the county clerk for an Affidavit and Order, Suspension of Fees/Costs (Form MC 20) to fill out.

You should have the following copies when you leave the clerk's office:

- 1 Copy of FOC 61 (with any attachments) - for you
- 1 Copy of FOC 61 (with any attachments) - for other party
- 1 Copy of FOC 61 - for proof of service to the court
- 1 Copy of FOC 61 - for proof of service to the friend of the court

»» SERVING THE OBJECTION AND MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the Objection and Motion on the other party.

The other party must be notified of the objection and motion. Serve the papers by mailing them to the other party by regular, first class mail.

What you need:

1 Copy of FOC 61 (with any attachments) - for the other party

2 Copies of FOC 61 - for proof of service

Any additional copies of FOC 61 (with any attachments) - for another custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren).

Mail 1 copy with attachments to the other party. If there is a custodian or guardian, mail 1 copy with the attachments to them also. Fill out the Certificate of Mailing on the front of the remaining 3 copies.

2. Return to the county clerk.

Once you have mailed the objection and motion and filled out the certificate of mailing, return to the county clerk's office with 2 copies. Keep the other copy for your own records.

3. Response from other party.

If you receive a response to your motion from the other party, make sure you read it before you attend any hearing. Think about what you want to say on your behalf.

INSTRUCTIONS FOR COMPLETING "OBJECTION TO EX PARTE ORDER AND MOTION TO MODIFY OR RESCIND"

Please print neatly. After filling in the form, you will need to make at least 5 copies of the form.

All items must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- Before you fill in the Case No., get your court papers for divorce, separate maintenance, paternity, or family support and copy the Case No. from those court papers onto this form.
- Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes and if applicable, the "Third Party" box. Copy the names from these court papers onto this form. For example, if your name is in the box that says "plaintiff", then you should write your name in the "plaintiff" box on this motion form.
- You are the "moving party". Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.
- **Item 1:** Enter the date of the ex parte order and attach a copy.
- **Item 2:** Check the boxes for the provisions of the ex parte order that you object to. **Explain in as much detail as possible** why you object to those provisions.
- **Item 3:** Check this box if you want a hearing scheduled if the objection and motion cannot be resolved by the friend of the court.
- Write in today's date and sign your name.

Go to the county clerk's office with the 6 copies of this form and the 4 copies of each separate sheet. The clerk will return 4 copies to you.

- **Certificate of Mailing:** Read page 3 for details on mailing this form to the other party. On the date you mail 1 copy (and the separate sheets) to the other party, write in the date and sign your name on the remaining 3 copies.

Return to the county clerk with 2 copies. See page 4 for details.

You must read the directions on the legal process.